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Re: Comments on Draft Programmatic EIS/EIR, June 1999

I am writing to comment on CALFED's Draft Programmatic EIS/EIR. Please enter these comments into the formal record of this proposed action.

There are four primary areas that my comments address: (1) the accuracy of the foundational analysis on which the Draft Programmatic EIR/EIS relies; (2) the adequacy of the alternatives analyzed in the Draft Programmatic EIR/EIS; (3) specific concerns about the watershed program; and (4) the need for a seven-year Record of Decision.

(1) CALFED fails to identify and address the controversy over the accuracy of the 1995 urban water demand, depeletions and overall hydrology that form the baseline for the CALFED Draft Programmatic EIR/EIS analysis.

CALFED relied upon the DWRSIM model to programmatically evaluate the "*effects of adding new facilities and changing existing facilities operating criteria on Central Valley flows, existing and new reservoir storage operations, Delta exports and outflow, and required water acquisition quantities...The model was also used to assess changes in water deliveries to south-of-Delta SWP and CVP water users resulting from Program implementation. Water supply reliability was assessed relative to the degree and frequency at which the facilities with the varying alternatives, managed with associated operations criteria are able to meet future water demands.*" (pg. A-3). Baseline operation criteria for the modeling effort was derived Bulletin 160-93 and B 160-98 (Appendix A). The source for the 1995 SWP and CVP demands for existing conditions and No Action scenarios are not identified in Appendix A, however, they are consistent with B160-98.

Testimony provided by the California Research Bureau to the California Legislature and CALFED last year identifies serious concerns over the procedures used in B 160-98 for arriving at the1995 levels of demands. The Bureau estimates that urban water demand statewide is

overestimated by 800,000 to 1.2 million acre-feet (O'Connor, August 1998). This problem potentially impacts both the1995 and 2020 water demand projections used in the Draft Programmatic EIR/EIS, the underlying hydrological assumptions in the DWRSIM model, and the least-cost planning simulation modeling effort. If the demand for urban water is overstated, then the following potential problems occur: (1) the modeling overstates depletions used to evaluate Bay-Delta hydrology and resulting environmental impacts and (2) the modeling overstates urban water needs from the Delta which could lead to both an over-estimate of the "shortages" that need to be addressed in the least-cost planning analysis as well as to inaccurate conclusions about the least-cost, least-harmful alternative for CALFED. In either case, CALFED's conclusions about the "preferred alternative" cannot be relied upon until questions about the accuracy of the core assumptions are addressed.

This is a serious problem of which CALFED has been aware since last summer. A comparison of the data sets used by DWR in B160-98 with the actual water used in 1995 in each data assessment unit would answer the question. Yet CALFED has not taken steps to formally evaluate the 1995 level of demand problem or to explain why the problem does not warrant specific action. Because this issue is central to the integrity of the draft Programmatic EIR/EIS analysis and any conclusions drawn about the "preferred alternative," the "least cost" or "least harmful" alternative as well as conclusions about "who" are the beneficiaries of key CALFED actions and "who" should pay, this is a significant omission which must be addressed, in writing, by CALFED.

A related problem identified by the California Research Bureau is the lack of documentation of key data sets and modeling specifications for the hydrology components of DWRSIM. Without this information, it is impossible to determine the accuracy of the information underlying the Draft Programmatic EIR/EIS or the adequacy of the document's conclusions.

(2) CALFED fails to present an alternative that will restore ecological health to the Delta and improve water management which is the stated purpose of the CALFED program.

The purpose of the CALFED program is "*to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta system.*" (page 1-6, emphasis added). Yet the conclusion of the CALFED analysis is that its Preferred Alternative adversely impacts the Delta in all 19 significant ways listed in Table 3-8, titled "*Summary of Potentially Significant Adverse Cumulative Impacts.*" (page 3-28). CALFED argues that the preferred alternative has relatively fewer adverse impacts than the other three alternatives and therefore is the least environmentally damaging of the alternatives cited. However, an alternative conclusion is that the range of alternatives in the Draft Programmatic EIR/EIS is not broad enough to include an alternative that could feasibly result in restoration of the ecological health of the delta and improvements in water management for beneficial uses of the system.

(3) CALFED fails to present a "least environmental harm" alternative.

The draft document fails to provide a range of alternatives that are distinguished by the degree to which they reduce environmental damage in the Delta or improve beneficial use of water in the Delta. To the extent that a "least environmental harm" option is included in the document, it is not presented as a separate alternative but incorporated into the eight common

programs. But the common program is never analyzed in its own right, either within the alternatives or separately, as a separate alternative, for its potential (at different levels of program emphasis and support) to reduce water conflicts in the Delta and to improve the ecological health of the Delta. At best, the draft programmatic EIR/EIS recognizes the potential of common programs for achieving CALFED's goal while acknowledging the significant impacts of the alternatives presented. For example, CALFED states on page 6.1-57, *"although the Program elements common to all alternatives would improve and increase aquatic habitat and improve ecological processes in the Bay-Delta, potentially significant and unavoidable impacts are associated with implementing the Conveyance element under Alternatives 1, 2 and 3."*

The failure of the Draft Programmatic EIR/EIS to include a clear "Least Harm Alternative" is a significant problem in the framing of the analysis. The common programs work together to reduce pressure on threatened and endangered species in the Delta as well as to reduce water conflicts by increasing the effectiveness of the existing ecological and water gathering systems throughout the solution area. In contrast, the alternatives described in the document are, fundamentally, water supply augmentation scenarios. While the common programs are embedded in these alternatives, CALFED places the primary emphasis on water supply augmentation which, in turn, serves to constrain the effectiveness of the common programs. In CALFED's words, *"increased water deliveries would limit the ability of other program elements, for example, actions in the Ecosystem Restoration Program to re-establish basic hydrologic features necessary to reactive and maintain the ecological processes and structure that sustain healthy aquatic communities...Additional diversions, including exports, could directly increase entrainment losses and contribute to net Delta flow conditions that may reduce productivity, impair species movement, and increase entrainment in Delta diversion. Most species are potentially affected including Chinook salmon, delta smelt, steelhead, and striped bass..."* (pg. 6.1-57).

As a result, the Draft Programmatic EIR/EIS fails to provide federal decisionmakers with a "Least Harm Alternative" as required in Section 404 of the Clean Water Act. Although it is stated in the document that the Section 404 permit will be accomplished at a later time, the alternatives presented do not allow a least Environmental Harm Alternative to be described, that can be analyzed and evaluated at a later date. With the common programs held at a vague and undifferentiated level of effect, it is impossible to ascertain from the document what the least environmental harm scenario could be. Each of the alternatives reduces demands and conflicts in the Delta in the same way, by the same implementation of the common program. Each of the alternatives "reduce conflicts" in the Delta in the same way, by expanding water supplies through by a combination of conveyance and the construction of up to 6 million acre feet of additional storage. Finally, the No Action alternative, described below, affords some limited information on a reduced demand scenario but the fails to provide adequate assessment of how reduced demands in combination with the common programs could achieve the overall goals of the CALFED program.

(4) CALFED uses inappropriate assumptions in the No Action Scenario which serves to constrain the analysis of options for reducing water conflicts in the system.

In the No Action alternative, the draft Programmatic EIR/EIS defines -- for all practical purposes -- water supply reliability as full deliveries of contract water to CVP and SWP contracts. *"Water supply reliability was assessed relative to the degree and frequency at which the facilities and associated operations criteria are able to meet future water demands...for this analysis, SWP and CVP water users were used as surrogates for all potential water supply*

beneficiaries." (page 5.1-25). There are other water supply beneficiaries including the area-of-origin water rights holders and the public through the public trust. CALFED inappropriately constrains the analysis of water supply impacts to a select constituency. It also inappropriately narrows the evaluation of water supply reliability to the capacity of the "facilities" to meet contract needs, rather than the capacity of an array of demand management and water supply alternatives to meet future water needs. This is a foundational problem, which impacts the evaluation of a key goal of the CALFED program.

CALFED also makes a core assumption that water use efficiency MAY NOT reduce Delta exports. It states, "*The effects of water use efficiency would be similar to those of reduced water demand within a given area. However, the Water Use Efficiency Program would not necessarily equate to reduced demand from a statewide perspective. Specifically, reduced demand would not be directly proportional to reduced Delta exports. Reduced demand would simply increase available consumption in another region of the state. This effect would be largely contingent upon the water-year type and delivery timing. For instance, if urban demand in the South Coast Region were reduced during a dry or critical water year, demands elsewhere in the state would be such that the foregone South Coast deliveries could be allocated to agriculture or urban consumption anywhere in the CVP and SWP services areas.*" (page 5.1-32 and 5.1 33).

The Draft Programmatic document asserts this assumption without discussion of the basis for the decision. In the actual modeling in the EIR/EIS analysis, NONE of the water efficiency or other water management savings in southern California is credited back to the Delta. Instead, water that is not used by Southern California is considered surplus and sent to the San Joaquin Valley for agricultural use. Ironically, even though this practice serves to reduce conflicts in the system, the document provides no statement recognizing this practice, the benefits to agriculture, or the potential impacts to the Delta.

It can be inferred that the reason for this modeling assumption is the inclusion of the Monterey Agreement in the No Action criteria and subsequent alternatives. However, CALFED fails to provide an analysis of the Monterey Agreement, its legal status (under legal challenge), or the implications for the CALFED evaluation. Further, the underlying modeling for the CALFED common program analysis contains no provision for translating the results of the CALFED water efficiency program into export reductions from the Delta. While it may be reasonable to recognize that reduced demand may not produce a "proportional decrease" in Delta exports, it is an unreasonable assumption to provide no capacity to evaluate such a reduction in Delta exports as part of the overall EIR/EIS assessment. No analysis is provided, at a programmatic level, of how delta exports could be reduced and the resulting benefits/impacts for the health and water management of the Bay-Delta system.

Finally, the one place where CALFED attempts to address the issue of demand management is in the No Action scenario A where the 2020 level of demand above existing conditions is assumed to be met through water efficiency/demand management programs (no specifics are given). However, the actual evaluation of this element is inconsistently treated throughout the document. In Chapter 5, for example, No Action Scenario A is adversely compared with No Action Scenario B and the three alternatives as to the amount of water exported from the Delta -- even though the definition of this alternative is that CVP and SWP needs are being met through water efficiency and other means. The draft Programmatic EIR/EIS provides inadequate information to assess the implications of Scenario A as a No Action baseline scenario for achieving CALFED programmatic goals. One scenario that should be evaluated is the combination of No Action Scenario A with the common programs.

(5) CALFED needs to integrate the watershed program with the other common programs.

The decision to prepare a watershed program was a good one, but the program now needs to be better integrated into the common programs being advance by CALFED. Currently the linkages between the watershed program and the CALFED core program are poorly articulated and relegated to a "local" emphasis. While watershed activities will be implemented on a site-specific basis, they provide an important alternative to large scale, single purpose projects, which CALFED fails to assess.

A successful CALFED program must develop broad-based programmatic and funding linkages between the watershed program and CALFED's other programs and workgroups. In particular, watershed management must be linked to "water management" in the draft Programmatic EIR/EIS. Implementing watershed management should be part of the due diligence and reasonable use of the state's waters that should proceed CALFED's implementation of additional large-scale water management projects.

In addition, the watershed program is the only element that is being asked to achieve funding "self-sufficiency" in the first two years of the implementation phase. This, in part, is based on the inaccurate assessment that the watershed program is primarily "local and is not a key component of the statewide water management solution. CALFED should place the highest priority of making the existing Bay-Delta system work better and only pursue additional engineered solutions after the common programs, including the watershed element, have been implemented first.

Finally, the watershed financing structure should clearly distinguish between financing projects that address cumulative past problems versus financing future benefits. The document fails to disclose where and how the state benefits, as a whole, from enhancing overall watershed function and effectiveness.

(6) CALFED should consider publishing a seven year Record of Decision in place of a thirty year programmatic Record of Decision.

The problems with the draft programmatic EIR/EIS are so extensive that CALFED should reconsider the time frame for which they are attempting to make decisions on the Bay-Delta future. By contrast, the Stage 1 of first seven-year program is spelled out in enough detail to potentially support a seven year Record of Decision, provided that the serious inconsistencies and inadequacies of the draft EIR/EIS document are reconciled and rectified. A seven-year focus should reduce many of the controversies surrounding the long-term evaluation, and provide CALFED with a clear focus and programmatic definition sufficient to support a record of decision.

In closing, CALFED has considerable work to do before a final Record of Decision can be issued. The baseline analysis for urban and agricultural demand must be re-assessed and corrected, and the entire analysis reviewed to assure that incorrect conclusions are not being drawn about the best approach to achieving CALFED's goals. The range of alternatives needs

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to be expanded to include (1) a demand reduction/export reduction alternative and, (2) a common program alternative which clearly produces water that counts toward fixing the Delta, rather than mitigating the damage of new conveyance and storage. The document needs to provide a clearer presentation of the baseline comparison between existing conditions, no action and the alternatives so that the benefits and impacts of the different scenarios can be easily understood. Currently this information is scattered throughout the document, making such a comparison extremely difficult. Finally, the CALFED program needs to develop a real water budget over the first seven years of the program. Currently, CALFED is dependent upon models that were designed to evaluate Delta exports, not the real function of the state's hydrological system. A water budget would help resolve the inadequacy of the quantitative data for the common programs.

Thank you for providing me with this opportunity to submit comments.

Sincerely,

Martha Davis

9/23/99